

Middletown Zoning Board Minutes

June 23, 2015

Administrative: Administrative: Roll Call Present to vote: Chairman Tom Silveira, Vice Chair Jim Miller, Secretary Stephen MacGillivray, Olin Gambrell, , Henry Pine (First Alternate); Chris Sousa (Second alternate); John Peixheino (Third Alternate).

Approval of Minutes from May 26, 2015 meeting. Jim Miller moves for approval and Stephen MacGillivray seconds. The Minutes are approved by a vote of 5-0.

Continuances/Withdrawals:

Petition of: VSH Realty Inc & Cumberland Farms, Inc.- by their attorney Robert M Silva, Esq.- for a Variance from Sections 603, 701 & Article 13- to allow the expansion and renovation of the existing convenience store and gasoline dispensing facility with a south side yard setback of 4.9' where 20' is required; a front yard setback of 8.3' where 10' is required; a rear yard setback of 25.8' where 50' is required; 8 parking spaces where 14 parking spaces are required, and from ..the landscaping requirements set forth in the Middletown Planning Board's Rules and Regulations regarding the Subdivision and Development of Land, pursuant to plans filed herewith and prepared by Vanasse, Hangen, Brustlin, Inc. Said real estate located

at 94 and 106 Aquidneck Ave and further identified as Lot 132, 133 & 134 on Tax Assessor's Plat 115SE. Attorney Robert Silva appears for the applicant and indicates that the matter still requires technical and Planning Board Review. Accordingly, the matter is continued to 7/28/15.

Petition of: VSH Realty Inc & Cumberland Farms, Inc.- by their attorney Robert M Silva, Esq.- for a Special Use Permit from Sections 602 and Article 11- to allow the expansion and renovation of the existing convenience store and gasoline dispensing facility as presently located in a Traffic Sensitive Limited Business Zone (LBA) and in Zone 1 of the Watershed Protection District (WPD). Said real estate located at 94 and 106 Aquidneck Ave and further identified as Lot 132, 133 & 134 on Tax Assessor's Plat 115SE. Attorney Robert Silva appears for the applicant and indicates that the matter still requires technical and Planning Board Review. Accordingly, the matter is continued to 7/28/15.

Petition of: D'Angelo Inc. c/o their attorney Vernon L. Gorton, Esq.- for a Special Use Permit from Sections 717 & 1200- to allow a drive up teller area and also to allow 2 additional building mounted signs for the proposed 2,500 sq. ft. TD Bank facility. Said real estate located at 553 West Main Rd and further identified as Lot 59 on Tax Assessor's Plat 107SE. Attorney Robert Silva indicates that more time is needed due to the passing of Vernon Gorton. Accordingly, the matter is continued until 7/28/15.

Petition of: D'Angelo Inc. c/o their attorney Vernon L. Gorton, Esq.- for a Variance from Section 1301B- to allow a 10' landscaped buffer where 20' is required for the off street parking facility for the proposed 2,500 sq. ft. TD Bank facility. Said real estate located at 553 West Main Rd and further identified as Lot 59 on Tax Assessor's Plat 107SE. Attorney Robert Silva indicates that more time is needed due to the passing of Vernon Gorton. Accordingly, the matter is continued until 7/28/15.

Petition of: Mello Realty, Inc. (owner) New Cingular Wireless PCS, LLC by AT&T Mobility Corp. (applicant) c/o their attorney Edward D. Pare, Jr., Esq. and Co-Counsel Robert M. Silva, Esq.- for a Special Use Permit from Sections 602, 902(A) Article 25 Sections 2501(C) & 2502(A) and to the extent required, all rights reserved, any other required relief, pursuant to RIGL, Title 45, Ch. 45-24 as well as the Federal Telecommunications Act of 1996. To allow the construction of a Wireless Communication Services Facility consisting of a 125' monopole tower with an enclosed equipment shelter. Said real estate located at Coddington Highway and further identified as Lot 103 on Tax Assessor's Plat 103. Attorney Robert Silva indicates that the matter requires technical and Planning Board Review. Accordingly, it is continued to 7/28/15.

Petition of: Mello Realty, Inc. (owner) New Cingular Wireless PCS, LLC by AT&T Mobility Corp. (applicant) c/o their attorney Edward D. Pare, Jr., Esq. and Co-Counsel Robert M. Silva, Esq.- for a Variance from Sections 2504(B), 2504(G) & 2504(I)(1) and to the extent required, all rights reserved, any other required relief, pursuant to RIGL, Title 45, Ch. 45-24 as well as the Federal Telecommunications Act of 1996 including, to the extent required all rights reserved, a Federal Preemptive Variance. To allow the construction of a Wireless Communication Services Facility consisting of a 125' monopole tower with a rear yard setback 93' and a side yard setback of 105' where 157' is required and closer than the required 10' from the compound fencing. Also to allow the equipment shelter with a height of 10.5' where 8' is allowed. Said real estate located at Coddington Highway and further identified as Lot 103 on Tax Assessor's Plat 103. Attorney Robert Silva indicates that the matter requires technical and Planning Board Review. Accordingly, it is continued to 7/28/15.

Petition of: Middle Creek Farm, LLC- by their attorney Neil P. Galvin- for a Variance from Sections 603 & 903- Petitioner seeks a regulatory variance for Lots 1, 2, 4 & 5 of the proposed subdivision to allow said lots where there is no frontage located in Middletown due to lots straddling the Town Line in Portsmouth but where the required frontage (150') exists partially in Middletown and/or partially or wholly in Portsmouth and for lots 1 & 5 where the actual square footage of the land located in Middletown is less than required but when

combined with the Portsmouth land it meets all requirements. Said real estate located at 114 Cornelius Drive/ Old Mill Lane and further identified as Lot 73 on Tax Assessor's Plat 128. Attorney Neil Galvin indicates that the matter requires Planning Board and Advisory Committee approval. Accordingly, it is continued to July 28, 2015.

Petition of: Middle Creek Farm, LLC- by their attorney Neil P. Galvin- for a Special Use Permit from Sections 902, 1103(b) & 1106- to allow development in Zone 1 of the Middletown Watershed Protection District as part of the Middle Creek Farm, LLC subdivision due to the presence of hydric soils relating to Lots 3, 4, and 5 of the proposed subdivision. Said real estate located at 114 Cornelius Drive/ Old Mill Lane and further identified as Lot 73 on Tax Assessor's Plat 128. Attorney Neil Galvin indicates that the matter requires Planning Board and Advisory Committee approval. Accordingly, it is continued to July 28, 2015.

Petition of: Mary R. Navarro- for a Variance from Sections 603 & 701- to allow the addition of a 20' x 30' one story addition and covered porch with a right side setback of 4' where 15' is required. Said real estate located at 19 Murphy Circle and further identified as Lot 10 on Tax Assessor's Plat 106. The applicant asks to withdraw the petition without prejudice. Jim Miller moves for approval of the request and Stephen MacGillivray seconds. The matter is withdrawn without prejudice as the board approves the request by a vote of 5-0.

Summary Cases:

Petition of: Howard R. & Cherry A. Hall- for a Variance from Sections 603 & 701- to construct a 10' X 16' front porch with a front yard setback of 33' where 40' is required. Said real estate located at 151 Atlantic Drive and further identified as Lot 516 on Tax Assessor's Plat 113. Jim Miller moves for approval and Stephen MacGillivray seconds. The petition is approved by a vote of 5-0.

Petition of: Elizabeth & Stephanie Owen- for a Variance from Sections 603, 701 & 803G- to construct a 12' X 31' deck with a right side yard setback of 25.98' where 30' is required. Said real estate located at 322 Indian Ave and further identified as Lot 34 on Tax Assessor's Plat 130. Jim Miller moves for approval and Stephen MacGillivray seconds. The petition is approved by a vote of 5-0.

Full Hearings:

Petition of: WM Hotel Group LLC c/o First Bristol Corp (owner)- Cellco Partnership (applicant) c/o their attorney Daniel D. Klasnick- for a Special Use Permit from Article 25 & Article 6, Section 602 and Article 9, Section 902- to allow the installation of a Building-Mounted Wireless Facility at the property consisting of rooftop mounted panel antennas, a stealth enclosed rooftop mounted equipment shelter and a natural gas backup generator with all necessary utility connections and appurtenances. Said real estate located at 317 West Main Rd and

further identified as Lot 131 on Tax Assessor's Plat 108. Earl Devol and Paul Mucci, engineer testify that there was an existing facility which is necessary to fill a gap in coverage. Greg Deacentis who is an abutter agrees to the variance. Stephen MacGillivray moves for approval and Jim Miller seconds. The petition is granted by a vote of 5-0.

Petition of: WM Hotel Group LLC c/o First Bristol Corp (owner)- Cellco Partnership (applicant) c/o their attorney Daniel D. Klasnick- for a Variance from Article 6, Section 603- to allow the installation of a Building-Mounted Wireless Facility at the property consisting of rooftop mounted panel antennas, a stealth enclosed rooftop mounted equipment shelter and a natural gas backup generator with all necessary utility connections and appurtenances, the stealth enclosed rooftop shelter will be 14'-5" above the roof resulting in an overall building height of 51'-5" where 40' is allowed. Said real estate located at 317 West Main Rd and further identified as Lot 131 on Tax Assessor's Plat 108. Stephen MacGillivray moves for approval and Jim Miller seconds. The petition is granted by a vote of 5-0.

Petition of: Paul R. Edick 2008 Trust- for a Special Use Permit from Section 803A- to allow the expansion of a non-conforming structure by the addition of a one story 114 sq. ft. bathroom. Said real estate located at 53 Ellery Ave and further identified as Lot 214 on Tax Assessor's Plat 116NE. Paul Edick presents his case. Stephen MacGillivray moves for approval and Jim Miller seconds. The petition

is granted by a vote of 5-0.

Petition of: Paul R. Edick 2008 Trust- for a Variance from Sections 603, 701 & 803G- to allow a 114 sq. ft. one story addition resulting in lot coverage of 29.47% where 25% is allowed. Said real estate located at 53 Ellery Ave and further identified as Lot 214 on Tax Assessor's Plat 116NE. Stephen MacGillivray moves for approval and Jim Miller seconds. The petition is granted by a vote of 5-0.

Petition of: Kempenaar Real Estates, Inc.- for a Special Use Permit from Sections 602 & 605- to allow a 3,270 sq. ft. addition to the existing hotel with restaurant facility by demolishing the existing 2,815 sq. ft. entrance/lobby and replacing it with a new 6,085 sq. ft. addition resulting in a new building footprint of 43,775 sq. ft. Said real estate located at 349-351 West Main Rd and further identified as Lots 19300-19301 on Tax Assessor's Plat 108. Robert Kempenaar presents his case. Jim Miller moves for approval and Stephen MacGillivray seconds. The petition is granted by a vote of 5-0.

Petition of: Kempenaar Real Estates, Inc.- for a Variance from Sections 603, 701 & 803G- to allow a 3,270 sq. ft. addition to the existing hotel in order to provide conference rooms and breakfast area with a south side yard setback of 1' where 10' is required. Said real estate located at 349-351 West Main Rd and further identified as Lots 19300-19301 on Tax Assessor's Plat 108. Jim Miller moves for approval and Stephen MacGillivray seconds. The petition is granted

by a vote of 5-0.

Petition of: Christopher & Heather Geraghty- for a Special Use Permit from Section 803A - to allow the expansion of the non-conforming use (2 dwellings on 1 lot) by the addition of a 16' X 24' deck on unit #2. Said real estate located at 739 Jepson Ln and further identified as Lot 4402 on Tax Assessor's Plat 111.Christopher Geraghty presents his case. Stephen MacGillivray moves for approval and Jim Miller seconds. The petition is granted by a vote of 5-0.

Petition of: Laurent Bissonnette- for a Special Use Permit from Section 602- to allow the addition of a 10' X 12' rear deck on an existing two-family dwelling. Said real estate located at 147 Seascap Ave and further identified as Lot 112 on Tax Assessor's Plat 115SE. Laurent Bissonnette presents his case. Stephen MacGillivray moves for approval and Jim Miller seconds. The petition is granted by a vote of 5-0.

Petition of: RK Middletown Village, LLC- by their attorney Matthew H. Leys- for a Special Use Permit from Sections 1212(D)(1), 1212(A) & 902- for permission to replace an existing freestanding plaza sign with a freestanding plaza pole sign that has 173.8 sq. ft. of sign area where 78 sq. ft. is allowed and a height of 25'- 9" where 20' is allowed. Said real estate located at 1313 West Main Rd and further identified as Lot 707 on Tax Assessor's Plat 112.Michael Belmont from Arcade

**Centers testifies as to each of the standard for a Special Use Permit.
Stephen MacGillivray moves for approval and Jim Miller seconds.
The petition is denied by a vote of 3-2.**